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IN THE

Supreme Court of the United States

OCTOBER TERM, 1941.

314-636

No. 152

MINNIE KEYES, *Petitioner,*

v.

UNITED STATES OF AMERICA, *Respondent.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA AND BRIEF IN SUPPORT THEREOF.

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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

The petitioner, Minnie Keyes, by her attorneys, W. Gwynn Gardiner and James M. Earnest, respectfully prays that a writ of certiorari issue to review a judgment of the United States Court of Appeals for the District of Columbia, entered in the above entitled cause on March 10, 1941, (R. 58) affirming the judgment of the District Court of the United States for the District of Columbia, entered on May 23, 1940. (R. 43-44)

A. STATEMENT OF THE MATTER INVOLVED.

This is a proceeding *in rem* begun by the Attorney General of the United States, at the instance of the Alley Dwelling Authority, to condemn certain real estate in the District of Columbia, including two parcels owned by the petitioner, for the construction of dwellings for families and persons of low income. The action was commenced on April 6, 1940, by the filing of a petition for condemnation (R. 1-19); and on April 11, 1940, respondent filed a declaration of taking in the District Court, and deposited the money estimated to be just compensation for petitioner's said properties. (R. 30-31)

Respondent also on April 11, 1940, filed a petition for an order to fix the time within which and the terms upon which possession of the premises sought to be acquired by condemnation should be surrendered to it (R. 26-29); and the District Court on April 11, 1940, signed a rule to show cause, directed against the petitioner and other property owners in interest, requiring them to show cause on May 10, 1940, why the prayers of said petition should not be granted, and why they should not be required to surrender possession of their respective properties to the respondent on or before May 17, 1940. (R. 33-35)

Petitioner filed an answer to said petition (R. 35-41); and likewise filed an answer to said rule to show cause. (R. 41) The matter came on for hearing on the return day of said rule to show cause; and the District Court, finding that the allegations in the petitioner's said answers were insufficient as a matter of law, and further that petitioner was not entitled to offer any evidence in support of the allegations contained in her said answers, thereupon entered an order on May 23, 1940, granting the prayers of said petition, and requiring and directing petitioner to forthwith surrender possession of her said properties to the respondent. (R. 43-44)

On June 16, 1940, petitioner filed a petition in the United States Court of Appeals for the District of Columbia for

allowance of a special appeal from the order of the District Court entered on May 23, 1940, which was allowed by said court on June 3, 1940 (R. 44-45) and said court affirmed the action of the District Court.

B. QUESTIONS PRESENTED AND REASONS FOR THE ALLOWANCE OF THE WRIT.

1. The United States Court of Appeals for the District of Columbia held that there was statutory justification for the condemnation of petitioner's property under the District of Columbia Alley Dwelling Act. In so holding, the Court failed to give a proper interpretation and construction of said act.

2. The effect of the decision of the United States Court of Appeals is that under the District of Columbia Alley Dwelling Act any privately owned property may be condemned for the construction thereon of dwellings for families and persons of low income, irrespective of where the property involved is located and the value thereof. In so holding, the Court failed to give proper effect to said Act, which only authorizes such condemnation in the interest of the public health, safety, morals and welfare, and then only where (1) the property is an alley property or situated within a square containing an alley or (2) where the property to be condemned is insanitary and unsafe and the project involves the elimination of unsafe and insanitary dwellings substantially equal in number to the number of newly constructed dwellings provided by the project.

3. Under the decision of the United States Court of Appeals petitioner is deprived of an opportunity to inquire into the facts and circumstances surrounding the legislative declarations contained in the District of Columbia Alley Dwelling Act, although the validity of said Act depends upon the truth of such declarations.

4. The action of respondent amounts to the confiscation of petitioner's property since the act relied upon is uncon-

stitutional in that it authorizes the condemnation of private property for other than public uses.

5. The question decided in this case by the United States Court of Appeals for the District of Columbia is of general importance, particularly in view of the fact that the respondent is proceeding with further and additional condemnation proceedings under the same circumstances and for the same purpose as here involved.

6. It is also apparent from the foregoing that the case presents a question of substance relating to the construction or application of the Federal Constitution, which, so far as the District of Columbia Alley Dwelling Act is concerned, has not been, but should be settled by this Court.

Wherefore, your petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Honorable Court, directed to the United States Court of Appeals for the District of Columbia, commanding that court to certify and to send to this Court for its review and determination on a day certain to be therein named a full and complete transcript of the record and all proceedings in the case numbered and entitled on its docket No. 7743, Minnie Keyes, Appellant, vs. United States of America, Appellee; and that the said judgment of the United States Court of Appeals for the District of Columbia may be reversed by this Honorable Court, and that your petitioner may have such other and further relief in the premises as to this Honorable Court may seem meet and just, and your petitioner will ever pray.

MINNIE KEYES.
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